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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,677

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Gerrat Dijkman

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SUITE 401

WASHINGTON, DC 20036

EXAMINER

RANADE, DIVA

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

06/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,677	Applicant(s) DIJKMAN, GERRAT	
	Examiner DIVA RANADE	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/19/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 5 and 15 contain the trademark/trade name Blue Tooth. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe wireless communication and, accordingly, the identification/description is indefinite.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,690,280 to Citrenbaum et al. in view of U.S. Patent 6,280,408 in view of Sipin.

a. Claims 1 and 3: Citrenbaum shows an apparatus for dispensing fluid in a dosed manner comprising a housing comprising a carrying device for suspending an infusion bag (See Fig 1), a measuring device comprising a load cell (See Column 5 lines 7-10) as in claim 3. Citrenbaum lacks showing the infusion bag to be a pressure bag containing a fluid container therein connected to a pump. Sipin shows this in Column 9 lines 44-57. It would have been obvious to one skilled in the art during the time of the invention to modify the infusion bag of Citrenbaum with that of Sipin in order to use a controllable means instead of gravity to dispense fluids.

b. Claims 2, 12 and 13: Sipin shows a the pump being of a miniature size (Column 9 line 51) capable of being a micro pump as in Claim 2. Sipin also shows that the pressure bag is a bag-in-a-container type in which an inner volume of fluid is dispensed and while the space between the outer wall and inner wall is connected to a means for building up pressure as in claim 12 (See

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column 9 lines 44-56). Furthermore, as in claim 13, the pressure bag contains a fluid container with at least partly flexible with a connecting element for dispensing fluid therefrom while the pressure vessel is provided with a connecting means for connection to a source for pressure fluid (See Column 9 lines 44-57).

c. Claims 4 and 6-11: Sipin shows a regulating unit operating components of the apparatus, in particular the pumping means, the flow control unit comprising a driving motor coupled to a tap that can be opened or closed with the aid of the driving motor, the tap being located in the tubing and is capable of having a noncircular passageway as in claim 11 (See Sipin Columns 9 and 10) and further shows that the change in pressure is fed to the regulating unit via the gauge pressure transducer which obtains values from pressure taps.

d. Claim 14: Citrenbaum shows an infusion bag wherein the weight is continuously measured (See Citrenbaum Column 3 lines 24-26) and the dispensing of the fluid is checked based on the measured weight and/or changes therein and a profile stored in a regulating unit supplied thereto (See Citrenbaum Column 3 lines 24-38). Citrenbaum modified with the infusion bag of Sipin shows a method for dispensing fluid from an at least partly flexible container which is included in a pressure bag wherein the fluid container is kept pressurized through the supply of a pressure fluid, while the discharge rate of fluid from the fluid container is controlled with the aid of a flow control unit in the dispensing tube (See Sipin Column 9 lines 44-63). It would have been obvious to one skilled in

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the art at the time of the invention to use this method given the apparatus of Citrenbaum modified by the pressure bag of Sipin in order to use a controllable means instead of gravity to dispense fluids.

5. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,690,280 to Citrenbaum et al. in view of U.S. Patent 6,280,408 in view of Sipin further in view of U.S. Publication 2002/0038392 to De La Huerga.

e. Claim 5 and 15: Citrenbaum modified by Sipin does not show a wireless communication means for communication between the regulating unit and peripheral equipment. De la Huerga shows such a system in [0041]. It would have been obvious at the time of the invention to include a means for operating the apparatus using wireless technology in order to insure the medical staff that the apparatus is working according to the patient's needs without needing to manually input information for each patient room by room.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIVA RANADE whose telephone number is (571)270-7456. The examiner can normally be reached on M-F, 7:30-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DIVA RANADE/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763